

# Industry Circular

Department of the Treasury



## Internal Revenue Service

Alcohol, Tobacco and Firearms Division  
Washington, D.C. 20224

Industry Circular No. 71-10

May 11, 1971

### PUBLIC LAW 91-659

Proprietors of distilled spirits plants,  
and others concerned:

**Purpose.** This circular is issued to inform you that Treasury Decision 7112, amending 26 CFR Part 201, Distilled Spirits Plants, and 26 CFR Part 252, Exportation of Liquors, was published in the Federal Register for May 8, 1971, and is effective as of May 1, 1971.

**Background.** The Treasury decision (1) implements the provisions of Public Law 91-659 as it amended the Internal Revenue Code with respect to (a) destruction of distilled spirits (b) losses of distilled spirits, (c) transfer of domestic distilled spirits, without payment of tax or with benefit of drawback, to customs warehouses, (d) involuntary liens, (e) bottling of distilled spirits in bond, and (f) return of tax-determined spirits to bonded premises; and (2) incorporates in the regulations, with a minor change, the provisions of Revenue Ruling 70-427 concerning procedures for the establishment of standard export drawback rates.

**Voluntary Destruction under Section 5008(b), I.R.C.** Public Law 91-659 amended section 5008(b), I.R.C., relating to voluntary destruction of distilled spirits, by eliminating the requirements that the spirits be unsuitable for the purpose for which they were withdrawn from bond and be destroyed before the completion of bottling and casing or other packaging. Section 5008(b), I.R.C., now permits destruction of spirits after, as well as before, completion and applies to spirits removed from the bottling premises to which withdrawn and returned thereto. As amended, it authorizes abatement, remission, or refund of, or allowance of credit for, the rectification taxes. The regulations were amended to reflect these changes in law and to provide procedures for the gauge and destruction of spirits destroyed after they were withdrawn from bond and before they were removed from, or after return to, the bottling premises of the proprietor, and for filing claims. The proprietor shall furnish such evidence of eligibility of the spirits for destruction as may be requested by the approving officer. On approval the spirits may be destroyed elsewhere than on the bottling premises.

(§§ 201.45, 201.561, 201.562, 201.563, and 201.623 amended.)

**Losses under Section 5008(c), I.R.C.** Public Law 91-659 extended the provisions of section 5008(c)(5), I.R.C., relating to allowance of losses of spirits, to spirits returned to the bottling premises to which the spirits were withdrawn from bond, provided the returned spirits are first dumped and gauged as provided by regulations. The regulations were amended to reflect this change in law and to provide procedures for the dumping and gauging of spirits returned to the bottling premises and for filing claims. The proprietor shall furnish such evidence of eligibility of the spirits returned for loss allowance as may be requested by the approving officer.

Subparagraph (iii), added to section 5008(c)(1)(A), I.R.C., extends the provisions for refund or credit of tax to any accidental loss amounting to ten (10) proof gallons or more, and provides that such losses would be subject to refund or credit without regard to the maximum loss allowance schedule stated in section 5008(c)(1), I.R.C. The regulations

are amended to reflect this change in law and to make clear which accidental losses may be included in operational loss calculations.

(§§ 201.45, 201.482, 201.485, and 201.494 amended; §§ 201.495 and 201.496 added; § 201.493 deleted.)

Transfer of Spirits to Customs Warehouses under Section 5066, I.R.C. Public Law 91-659 redesignated section 5066, I.R.C., as section 5067, and added a new section 5066 to provide for the transfer of bottled distilled spirits from the bonded premises of a distilled spirits plant without payment of tax, and for the shipment of bottled distilled spirits with benefit of drawback, to a customs bonded warehouse for subsequent withdrawal therefrom for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals as are entitled to withdraw imported distilled spirits from such warehouse free of tax. Under the law, the domestic spirits are deemed to be exported at the time they are entered into the customs warehouse. To conform to the law, corresponding amendments are made in and new sections are added to the regulations.

(§§ 201.25, 201.386, 201.527, 201.528, 201.586, 252.1, 252.25, 252.42, 252.58, 252.61, 252.62, 252.65, 252.91, 252.92, 252.93, 252.103, 252.110, 252.115, 252.171, 252.190, 252.193, 252.196, 252.250, 252.265, 252.301, 252.331, and 252.333 amended; §§ 252.26, 252.27, 252.244a, and 252.286 added.)

Judgments or Other Involuntary Liens under Section 5173(b)(4), I.R.C. Public Law 91-659 added a new subparagraph (4) to section 5173(b), I.R.C., relating to distillers' bonds, to provide, in the case of a judgment or other lien imposed on the property subject to lien under section 5004(b)(1), I.R.C., without the consent of the distiller, that the distiller may file a bond in the amount of the involuntary lien. The result of this change is that a distiller will not be required to file a bond for the entire value of the property subject to the involuntary lien. The regulations are amended to reflect the change in law, and to provide that, if more than one involuntary encumbrance is outstanding, in whole or in part at one time, one bond, in an amount equal to the total outstanding balance on such encumbrances, would cover all of them.

(§§ 201.173, 201.192, 201.198, 201.200, 201.211, 201.221, 201.223 amended; § 201.230a added.)

Bottling of Spirits under Section 5178(a)(4)(A), I.R.C. Public Law 91-659 added to section 5178(a)(4)(A), I.R.C., relating to the storage of distilled spirits, a provision whereby, under specified conditions, a proprietor of a distilled spirits plant may use facilities on his bottling premises for the bottling in bond of tax-determined spirits. The bottling and bonded premises must be at the same distilled spirits plant; the bottling must be in accordance with the requirements (including those relating to supervision) of sections 5202 (g) and 5233, I.R.C.; and the bottled spirits must be stamped and labeled in the same manner as distilled spirits bottled in bond before payment or determination of tax.

To conform to the law, the regulations require the proprietor to furnish a statement on Form 2607, Registration of Distilled Spirits Plant, of his intent to bottle in bond after tax determination; and prescribe the conditions under which facilities may be used for bottling-in-bond operations.

(§§ 201.114 and 201.132 amended.)

In addition, the regulations require that spirits to be bottled in bond after determination of tax be withdrawn from bond for that specific purpose. They provide that such bottling be conducted under the control and direct supervision of an assigned officer and that so long as any spirits which are to be bottled in bond remain in a tank, the tank shall be locked with Government locks at all times that the assigned officer is not on the plant premises. The proprietor must separately record and report spirits bottled in bond (after determination of tax) from spirits otherwise bottled on bottling premises, and, for accounting purposes, a separate case numbering series is prescribed for such spirits. The regulations prohibit spirits withdrawn by one proprietor from being bottled in bond by another.

(§§ 201.89, 201.174, 201.243, 201.371, 201.385, 201.514, 201.527, 201.528, 201.540m, 201.541, 201.547, and 201.623 amended; Subpart Na (§§ 201.470a through 201.470q) added.)

Return of Tax-Determined Spirits to Bonded Premises under Section 5215, I.R.C. Public Law 91-659 made a number of changes in section 5215, I.R.C., relating to the return of tax-determined spirits to bonded premises, as follows:

1. The requirement that the spirits be unsuitable for the purpose for which withdrawn was eliminated.
2. The requirement that the spirits be returned in the containers in which they were withdrawn, and before being processed in any way, was eliminated.
3. The requirement for the "immediate" destruction, denaturation, redistillation or mingling upon return of the spirits to bond was eliminated. Instead, such returned spirits may be accumulated for short periods of time (but not longer than 6 months) so that the disposition may be accomplished in quantities sufficiently large to make the operations economically worthwhile.
4. Additional mingling of returned spirits, namely, with heterogeneous spirits for immediate removal to bottling premises for specifically identified purposes, was authorized.
5. A provision was added restricting the return to bond to spirits withdrawn from bonded premises on payment or determination of tax and which contain no alcoholic ingredients other than such spirits. Thus, spirits containing wine or nonbeverage products, for example, would be ineligible for return.

The regulations were amended to reflect these changes in law, and to require the proprietor to furnish such evidence of eligibility of the taxpaid spirits for return to bond as may be requested by the approving officer.

(§§ 201.44, 201.581, 201.582, and 201.583 amended.)

Standard Export Drawback Rates. The Treasury decision amended Parts 201 and 252 to incorporate in those regulations, with a minor change, the provisions of Revenue Ruling 70-427 regarding the establishment of standard export drawback rates, and the waiving by the Assistant Regional Commissioner of the requirement for the filing of certain forms in support of claims for drawback. The regulations will require riders on formulas to be filed in quadruplicate instead of in triplicate.

(§§ 201.422, 201.425, and 252.195a amended; § 252.173 added.)

Status of Forms. To conform to the changes made in the regulations, 13 forms are being revised and 2 new forms are being issued, as follows:

<u>Form No.</u>	<u>Title</u>
122*	Bottler's Dump and Batch Record
179	Withdrawal of Spirits Taxpaid
206	Withdrawal of Spirits, Specially Denatured Spirits, or Wines for Exportation
1577	Destruction of Spirits
1582	Drawback on Distilled Spirits Exported
2601	Distilled Spirits Bond
2611	Statement of Losses at Bottling Premises
2612	Taxpaid Spirits Returned to Bonded Premises
2637*	Bottling Tank Report
2733	Monthly Report of Bottling Premises Operations
2734	Specific Export Bond--Distilled Spirits or Wine
2735	Continuing Export Bond--Distilled Spirits and Wines
2738	Drawback Bond--Distilled Spirits and Wine
4737 (NEW)	Indemnity Bond--Judgment or Other Involuntary Lien
4738 (NEW)	Notice and Gauge of Spirits Returned to Bottling Premises

Forms marked with an asterisk are obtained through commercial printers. If prior to receipt of the latest revision of the bond forms, you should have occasion to file a new or superseding bond, Form 2601, 2734, 2735, or 2738, to provide for transfers of spirits to customs warehouses under section 5066, I.R.C., it will be necessary for you to file consent of surety to recognize the new condition to the terms of the bond.

Upon request, your Assistant Regional Commissioner will furnish you with an initial supply of the revised and new forms.

Inquiries. Inquiries regarding this circular should refer to its number and be addressed to your Assistant Regional Commissioner, Alcohol, Tobacco and Firearms.

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